



PATENT
29250-000938/US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Jung Ah LEE et al.	Conf. No.:	8333
Serial No.:	10/651,200	Group:	2631
Filed:	August 29, 2003	Examiner:	Unassigned
For:	METHOD AND ARRANGEMENT FOR DETECTING A RANDOM ACCESS CHANNEL PREAMBLE USING MULTIPLE ANTENNA RECEPTION IN A COMMUNICATION SYSTEM		

**PETITION UNDER 37 C.F.R. § 1.53(e) TO MAINTAIN ORIGINAL FILING DATE, OR
IN THE ALTERNATIVE, PETITION UNDER 37 C.F.R. § 1.182 TO REQUEST A
LATER FILING DATE**

Assistant Commissioner for Patents
Mail Stop Missing Parts
Washington, D.C. 20231

December 9, 2003

Dear Sir:

In response to the Notice to File Missing Parts of a Nonprovisional Application filed under 37 CFR §1.53(b), mailed November 21, 2003, Applicants hereby respectfully petition under the provisions of 37 C.F.R. §1.53(e) and MPEP 601.01(f) for decision to maintain the original filing date of August 29, 2003 in the above-identified application. Applicants assert that the drawings at issue are not necessary under 35 U.S.C. §113 (first sentence) for a filing date. In the event that this petition under 37 C.F.R. §1.53(e) is denied, Applicants petition alternatively under 37 C.F.R.

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§1.182 to request a later filing date. Applicants reserve the right to further petition a denial of this Rule §1.53(e) petition.

A Notice to File Missing Parts of a Nonprovisional Application (dated November 21, 2003) received by Applicants indicates that the oath or declaration is missing, and also that Figure(s) 2-4 (described in the specification) appeared to have been omitted from the application. Applicants attach the original signed Declaration as Exhibit I hereto, omitted Figs. 2-4 as Exhibit II, a Supplemental Declaration as Exhibit III, and the Notice to File Missing Parts of a Nonprovisional Application as Exhibit IV). Applicants request that a petition under 37 C.F.R. §1.53(e) be granted to maintain the original August 29, 2003 filing date, for the reasons set forth below.

Petition under 37 C.F.R. 1.53(e)

35 U.S.C. § 111(a)(2) requires that an application for patent include *inter alia*, “a specification as prescribed by Section 112 of this title,” and 35 U.S.C. § 111(a)(4) provides that the “filing date of an application shall be the date on which the specification and any required drawings are received in the Patent and Trademark Office.” 35 U.S.C. § 112, first paragraph, provides, in part, that “the specification shall contain a written description of the invention,” and 35 U.S.C. § 112, second paragraph, provides that “the specification shall conclude with one or more claims particularly pointing out and distinctly claim the subject matter which the applicant regards as his invention.”

Applicants respectfully submit that the conditions for being accorded a filing date have been met. The application filed on August 29, 2003 contained at least one claim, a specification that satisfied Section §112 of this title and had furnished drawings that were necessary for the understanding of the subject matter sought to be patented, as required under 35 U.S.C. §113 and 37 CFR §1.81(a). Applicants submit that FIGS. 2-4, attached in Exhibit II hereto, are not figures that are "necessary for the understanding of the invention" under 35 U.S.C. §113. Accordingly, as all the conditions for filing date were met, Applicants request that the August 29, 2003 filing date be maintained by the United States Patent and Trademark Office.

It has been the United States Patent and Trademark Office practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113 (first sentence). (See MPEP 601.01(f)) In Exhibit II, FIG. 4 is a flowchart which tracks a method that is fully described in the specification, beginning at page 8, paragraph [0036]. FIG. 4 adds no new matter, as the method steps are fully described in the specification. Accordingly FIG. 4, which describes a method, is not necessary for an understanding of the invention. The inadvertent omission of FIG. 4 should thus not prevent applicants from maintaining the August 29, 2003 filing date, as all the requirements for the August 29, 2003 filing date are met without FIG. 4.

FIG. 2 in Exhibit II is directed to an exemplary uncertainty region to pictorially describe how bins are divided in time and space. FIG. 2 adds no new matter, as angle bins and delay bins are described initially in paragraph [0033], prior to discussion of FIG. 2, and discussed fully throughout the specification. FIG. 2 is provided only for the convenience of the reader, as a temporal search region of bins is well known in the art. Accordingly, Applicants submit that FIG. 2 is a drawing that is provided for convenience sake only, and is not necessary for an understanding of the invention, as required under 35 U.S.C. § 113. Accordingly, the omission of FIG. 2 should not prevent Applicants from maintaining the August 29, 2003 filing date, as all the requirements for the August 29, 2003 filing date are met without FIG. 2.

FIG. 3 is provided as a pictorial representation of nominal angle of arrival and random angle deviation for the convenience of the reader only, as these aspects of beam scattering are well known in the art. Applicants submit that FIG 3 is not a drawing that is necessary, under 35 U.S.C. § 113, for an understanding of the subject matter sought to be patented. Accordingly, the omission of FIG. 3 should not prevent Applicants from maintaining the August 29, 2003 filing date, as all the requirements for the August 29, 2003 filing date are met without FIG. 3.

In view of the above-described facts, it is respectfully submitted that the application as filed on August 29, 2003 met all requirements for being accorded the filing date of August 29, 2003. Accordingly, this petition is being timely filed for the

purpose of maintaining the August 29, 2003 filing date despite the omission of Figures 2-4, in view of the above-stated facts.

Applicants request that this petition be granted, and an indication that FIGS. 2-4 of Exhibit II are to be entered by way of preliminary amendment to avoid delays in prosecution of the application, or concurrently with the granting of this petition. Alternatively, if granting of the petition requires deleting references to FIGS. 2-4 and amending of the specification, the Office of Petitions Examiner is kindly requested to indicate such so that Applicants may make any required changes by preliminary amendment to avoid delays in prosecution of the application.

Alternative Petition under 37 C.F.R. 1.182

In the alternative, should the petition under 37 C.F.R. §1.53(e) be denied, Applicants alternatively petition under 37 C.F.R. §1.182 that the United States Patent and Trademark Office at least indicate a new filing date in light of Exhibits I-IV. The Supplemental Declaration should be entered by the United States Patent and Trademark Office only in the event that the petition under 37 C.F.R. §1.53(e) is denied and this alternative petition under 37 CFR 1.182 granted. Accordingly, Exhibits I-IV represent a complete response to the Notice to File Missing Parts of Nonprovisional Application dated November 21, 2003. Further, Applicants reserve the right to further petition such a denial of the Rule §1.53(e) petition.

Petition Fee

In the event that the petition fee is deemed necessary by the United States Patent and Trademark Office, it is respectfully requested that the fee of \$130.00 as set forth in 35 U.S.C. §1.17(h)(1) be charged to Deposit Account No. 08-0750.

Conclusion

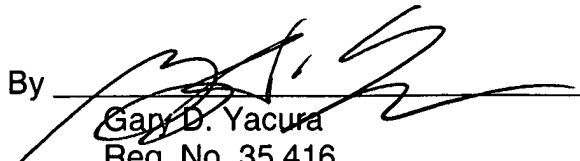
In the event there are any outstanding matters remaining in this application, the Examiner is invited to contact Matthew J. Lattig, (Reg. No. 45,274) at (703) 668-8026 in the Northern Virginia area, for the purpose of a telephonic interview.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY & PIERCE, P.L.C.

By


Gary D. Yacura
Reg. No. 35,416
P.O. Box 8910
Reston, VA 20195-8910
(703) 668-8000

GDY/MJL

Attached: Exhibits I-IV

ATTACHMENT A

Attorney Name(s):	<u>Thomas S. Auchterlonie</u>	Reg. No(s):	<u>37,275</u>
	<u>John A. Castellano</u>		<u>35,094</u>
	<u>Terry L. Clark</u>		<u>32,644</u>
	<u>John E. Curtin</u>		<u>37,602</u>
	<u>Donald J. Daley</u>		<u>34,313</u>
	<u>Gary D. Yacura</u>		<u>35,416</u>

Telephone calls should be made to HARNESS, DICKY & PIERCE, PLC at:

Phone No.: 703-668-8000

Fax No.: 703-668-8200

All written communications are to be addressed to:

HARNESS DICKY & PIERCE, PLC

P.O. Box 8910
Reston, VA 20195